IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

Crl.MC.No. 5302 of 2003

CC.247/2002 of CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR

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PETITIONER: ACCUSED 1 AND 2.

1. P.J.A.MOHAN, MANAGING PARTNER,
   (M-140 CHANGAMPUZHA NAGAR, S.KALAMASSERY)
   M/S/ABCO ACCUMULATORS EDAYAR INDUSTRIAL ESTATE,
   MUPPATHADAOM P.O. ALUVA.

2. M/S.ABCO ACCUMULATORS, EDAYAR INDUSTRIAL
   ESTATE, MUPPATHADOM PO,ALUVA. REP. BY
   P.J.A.MOHAN, MANAGING PARTNER.

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENTS: COMPLAINANT AND STATE.

1. EMPLOYEES STATE INSURANCE CORPORATION,
   REP. BY INSPECTOR, ESI CORPORATION, THRISSUR.

2. STATE OF KERALA REP. BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

R1 BY ADV. SRI.P.SANKARANKUTTY NAIR
R2 BY PUBLIC PROSECUTORMR. AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 25-9-2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.M.A. NO. 12218/2003 IN CRL.M.C. NO. 5302/2003

DISMISSED.

25-9-2007 SD/-K.R. UDAYABHANU, JUDGE

TRUE COPY

P.S. TO JUDGE

K.R. UDAYABHANU, J.

CRL.M.C.NO. 5302 OF 2003

DATED THIS THE 25th September 2007

ORDER

The petitioners herein are the Managing Director and the firm by name M/s. Abco Accumulators against whom the proceedings vide C.C.No.247/2002 with respect to the offence for violation of Section 85(a)(e) and (g) of the E.S.I.Act is pending. The above proceedings are sought to be quashed. The petitioners have also produced Annexures A1 to A3. Annexure A-1 is the return filed dated 25-4-2000 for the period from October 1999 to March 2000 and the amount declared to be paid as the employer's share is Rs.4626/-. Annexure-I contains also the list of employees wherein it is also mentioned that some of the employees have resigned. Annexure--II is Section 45 A proceedings initiated by the competent authority and the amount calculated is Rs.13,943/-. The complaint was filed before the court on 31-7-2002. Annexure-IV is the demand notice for the amount of Rs.13,943/- and interest altogether amounting to Rs.17,574/-. Subsequently the accused herein approached this Court vide O.P.No.1601/2003 alleging that the competent authority while issuing Annexure-II order did not provide them an opportunity of

hearing. This Court as per judgment dated 16-1-2003 directed the authority to hear the accused herein and dispose of the matter. Annexure-VI is the order of the competent authority under Section 45 A in compliance of the order of this Court. As per Annexure-VI order, the contribution due from the employer is substantially reduced to Rs.2405/-. It is in the above circumstances that they have sought for getting quashed Annexure-III proceedings initiated on 31-7-2002.

Although as pointed out by counsel for the E.S.I. Corporation there is a lapse on the part of the accused in not having remitted the amount at the time when it was due in view of the fact that the due amount has been substantially reduced by the competent authority and that the amount has been paid. I find that there is no scope for further proceeding with the matter. Hence, the proceedings pending against the petitioners in C.C.No.2247/2002 in the file of the Chief judicial Magistrate Court, Thrissur is herewith quashed. The Crl.M.C.is allowed.

K.R.UDAYABHANU, JUDGE

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